

1973 WL 26981 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 21, 1973

*1 The Honorable Gary E. Byrd, Jr.
Representative
Darlington County
Route 1
Box 247
Hartsville, South Carolina 29550

Dear Mr. Byrd:

Thank you for your letter of November 21, 1973, reading as follows:

'I would like to solicit your opinion as to whether or not incorporated areas in Darlington County may commence serving new areas with water distribution outside their respective corporate limits subsequent to the effective date of Act No. 446 of 1971 which created the Darlington County Water and Sewer Authority.'

Act No. 446 (71 Acts 834) creates the Darlington County Water and Sewer Authority. Its service area includes all of Darlington County, excluding any area within an incorporated municipality or areas served by municipalities, except with the consent of the municipal authorities. Section 13 of the Act provides that:

'No municipality—operating water and sewerage systems shall extend its present facilities beyond the corporate limits without prior written approval of the Authority.'

In my opinion, the effect of the foregoing provisions is to preclude a municipality from extending its water and sewerage systems beyond its corporate limits without prior written approval of the Darlington County Water and Sewer Authority.

Such extension could not be made subsequent to June 17, 1971, the effective date of the Act. Therefore, the answer to the above question is that incorporated areas in Darlington County may not commence new areas with water distribution outside their limits subsequent to June 17, 1971, without the approval of the Authority.

You additionally inquire:

'I would also like to have your opinion on whether or not the county authority would be able to take over any such outside service area of any incorporated area in the county where water service was commenced after the effective date of the act creating the authority.'

In my opinion, the county Authority may assume jurisdiction of areas which were/served by a municipality outside its limits subsequent to June 17, 1971, unless it has approved the extension of such service beyond the city limits. This will most probably involve injunctive proceedings and/or eminent domain proceedings.

With best wishes,

Very truly yours,

Daniel R. McLeod

Attorney General

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